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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION
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15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 vs.
18

19 RICHARD WHEAT,

20 Defendant.
21

) No. CR 07-00558 JW
)

) STIPULATION TO CONTINUE
) [PROPOSED] ORDER THEREON
)

) Date: March 10, 2008

) Time: 1:30 PM

) Judge: James Ware
)

22 IT IS HEREBY STIPULATED by and between counsel that there exists good cause
23 to continue the trial setting hearing in the matter of RICHARD WHEAT from March 10,
24 2008 at 1:30 p.m. to April 21, 2008 at 1:30 p.m. This continuance is requested due to the
25 unavailability of counsel.
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2 In light of these facts, the parties agree that the time between March 10, 2008 and
3 April 21, 2008 shall be excluded from the Speedy Trial Act requirements of Title 18, United
4 States Code, § 3161 pursuant to Title 18, United States Code § 3161(h)(8)(A) and
5 §3161(h)(8)(B)(iv). The parties agree that the time is excludable in that the ends of justice
6 served by granting this continuance outweigh the best interests of the public and the
7 defendant in an earlier trial, specifically based on the fact that defendant Wheat's counsel is
8 currently in a two defendant ten week homicide Jury Trial in the Superior Court of Santa
9 Cruz County, People v. Mitchell and Bell case no. F12187, which precludes his involvement
10 in both the March 10, 2008 court appearance and meaningful participation in either
11 resolving this case via a plea or preparing for trial between March 10, 2008 and April 21,
12 2008. For these reasons, the parties agree that a continuance is necessary to ensure that the
13 defendant and defense counsel are prepared to make informed decisions regarding the case,
14 and denial of such a continuance would unreasonably deny defendant Richard Wheat
15 effective case preparation pursuant to 18 U.S.C. §3161(h)(8)(A) and §3161(h)(8)(B)(iv).
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21 Therefore, it is respectfully requested that the current Trial Setting Hearing date of
22 March 10, 2008 at 1:30 p.m. be vacated and the matter be continued to April 21, 2008 at
23 1:30 p.m.
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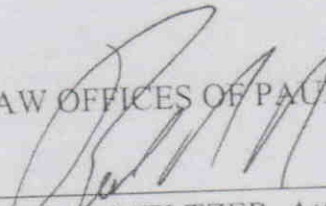
1
2 THE PARTIES SO STIPULATE.
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5 Dated: February 28, 2008
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UNITED STATES ATTORNEY'S OFFICE

Dave Calloway by:
DAVE CALLOWAY, A.U.S.A. 

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10 Dated: February 27, 2008
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LAW OFFICES OF PAUL B. MELTZER

12 PAUL B. MELTZER, Attorney for
13 Defendant, RICHARD WHEAT
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PROPOSED] O R D E R

Good cause shown, therefore, IT IS HEREBY ORDERED that the Hearing set for March 10, 2008 be vacated and the matter be reset for April 21, 2008 at 1:30 p.m.

In light of these facts, the Court finds that the time between March 10, 2008 and April 21, 2008 shall be excludable from the Speedy Trial Act requirements of Title 18, United States Code, §3161 pursuant to Title 18, United States Code, §3161(h)(8)(A) and §3161(h)(8)(B)(iv). The Court finds that the time is excludable in that the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in an earlier trial specifically based on the fact that the defendant Wheat's counsel is in a two defendant ten week homicide Jury Trial in the Superior Court of Santa Cruz County, People v. Mitchell and Bell case no. F12187, which preclude his involvement in both the March 10, 2008 court appearance and meaningful participation in either resolving this case via a plea or preparing for trial between March 10, 2008 and April 21, 2008. For these reasons, the parties agree that a continuance is necessary to ensure that the defendant and defense counsel are prepared to make informed decisions regarding the case, and denial of such a continuance would unreasonably deny defendant Richard Wheat effective case preparation pursuant to 18 U.S.C. §3161(h)(8)(A) and §3161(h)(8)(B)(iv).

SO ORDERED.

Dated: February _____, 2008

HON. JAMES WARE, DISTRICT JUDGE
UNITED STATES DISTRICT COURT